

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
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DATE FILED: 4/28/2021

JULIAN ANTONIO LANTIGUA CABAS, :
: Plaintiff, :
: :
-against- :
: :
ELEGANT LINEN OF NY INC (D/B/A :
BARGAIN STORE), HAISAM I. ABADI, :
and ASHI DOE, :
: Defendants. :
----- X

VALERIE CAPRONI, United States District Judge:

WHEREAS on December 17, 2019, the Court entered a default judgment against Defendant Elegant Linen of NY Inc., Dkt. 30;

WHEREAS in the same order, the Court deferred the determination of damages to after the conclusion of the proceedings against the remaining Defendants, *id.*;

WHEREAS on April 5, 2021, the Court ordered Plaintiff to submit a damages calculation with respect to Defendant Elegant Linen of NY Inc., by no later than April 16, 2021, Dkt. 53;

WHEREAS the submission was woefully inadequate, *see* Order, Dkt. 55 (outlining the deficiencies):

WHEREAS Plaintiff had until Friday, April 23, 2021, by 5:00 P.M. to file a new submission curing the deficiencies, *id.*:

WHEREAS on April 24, 2021, Plaintiff's counsel informed the Court that he filed the submission on the wrong docket, although by the April 23, 2021 5:00 P.M. deadline, and requested that the Court overlook this inadvertent mistake, Dkt. 56; and

WHEREAS the submission was indeed filed in the wrong matter by the 5:00 P.M. deadline, *see* 19-CV-4579, Dkt. 62 (filed at 4:58 P.M.);

IT IS HEREBY ORDERED that Plaintiff's request that the Court accept his filing as timely is GRANTED.

IT IS FURTHER ORDERED that by no later than **Friday, April 30, 2021**, Plaintiff's counsel must file:

1. An affidavit or declaration from Plaintiff's counsel that includes the total amount of pre-judgment interest based on the information provided in counsel's prior declaration, *see Decl.*, Dkt. 64 ¶¶ 10–11, and using December 17, 2019, the date the default judgment was entered, as the date of judgment. *See Herrera v. 12 Water St. Gourmet Cafe, Ltd.*, No. 13-CV-4370, 2016 WL 1274944, at *8 (S.D.N.Y. Feb. 29, 2016), *report and recommendation adopted*, No. 13-CV-4370, 2016 WL 1268266 (S.D.N.Y. Mar. 31, 2016) (using the date the default judgment was entered when calculating prejudgment interest). Plaintiff's counsel must provide a detailed explanation of the calculations.
2. A revised proposed order of default judgment that includes the amounts of prejudgment interest, the total damages, and the total judgment against Defendant Elegant Linen of NY Inc.

IT IS FURTHER ORDERED that if Plaintiff does not file anything by the Friday, April 30, 2021 deadline, or if Plaintiff files another deficient submission, the Court will both dismiss the case against Defendant Elegant Linen of NY Inc. for failure to prosecute and close this case. The Court is unlikely to accept any additional excuses for failure to comply with Court orders.

SO ORDERED.

Date: April 28, 2021
New York, NY


VALERIE CAPRONI
United States District Judge